

REMARKS

Claims 128, 129, 131, 134-136, 144, 164 and 165 are presently pending. Support for the term “immunogenic composition” in the amended claims is found in the specification as filed, for example at page 50, lines 7-9, and at page 54, line 21 through page 55, line 6. No new matter has been added herewith. The following addresses the substance of the Office Action.

Indefiniteness

Claim 131 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In particular, the claims referred to Figure 4 and Table 1 to describe an amino acid sequence. However, it was unclear which S protein residues were referred to in light of fragments and variations of the CRCV protein.

Claim 131 is amended to specifically recite “a coronavirus Spike (S) protein having at least 90% amino acid sequence identity with SEQ ID NO: 4, or a fragment thereof of at least 200 amino acid residues in length, said S protein or said fragment comprising at least one of the canine respiratory coronavirus (CRCV)-specific amino acids of SEQ ID NO: 4 selected from the group consisting of 103V, 118V, 166D, 171M, 179K, 192P, 210S, 235H, 267F, 388F, 407M, 436S, 440I, 447I, 501F, 525Y, 528N, 540L, 582K, 608G, 692G, 695S, 757W, 758G, 763Q, 769T, 786P, 792H, 818R, 827P, 828V, 887F, 933D, 977F, 1011T, 1018S, 1063K, 1256L, and 1257M.” The Applicants note that SEQ ID NO: 4 is the full-length amino acid sequence of the CRCV S protein. Support for recitation of “a fragment thereof of at least 200 amino acid residues in length” is found in the Specification as filed, at page 17, lines 25-27. In view of the amendments to Claim 131, the claims are believed to be in compliance with 35 U.S.C. § 112, second paragraph.

Enablement

Claims 128-131, 134-136, 164 and 165 were rejected under 35 U.S.C. § 112, first paragraph. The Examiner concluded that the specification, while being enabling for an immunogenic composition based on an attenuated/inactivated Canine Respiratory Coronavirus (CRCV) does not reasonably provide enablement for a vaccine for such a virus. Without acquiescing, and solely in the interest of expediting prosecution of the application, the Applicants have amended the claims to recite immunogenic compositions.

Moreover, the scope of the claims has been reduced to require 90% identity. Thus, any experimentation necessary to practice the full scope of the present invention would not be undue. Accordingly, the claims are in compliance with the enablement requirement of 35 U.S.C. § 112, first paragraph.

Objections

Claim 131 was objected to because the claims referred to Figure 4 and Table 1 to describe an amino acid sequence. As discussed above in relation to the indefiniteness rejection, Claim 131 is amended to specifically recite SEQ ID NO: 4 and Canine Respiratory Coronavirus (CRCV)-specific amino acids of SEQ ID NO: 4.

Claim 128 was objected to because the acronym “CRCV” was not defined. As suggested by the Examiner, Applicants have amended Claim 128 to recite “...Canine Respiratory Coronavirus (CRCV)...”

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Application No.: 10/522,513
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Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the ongoing prosecution in the following co-pending applications of the present application's assignee:

Docket No.	Serial No.	Title	Filed
ERP02.001APC1	10/563199	VACCINE COMPOSITION FOR VACCINATING DOGS AGAINST CANINE INFECTIOUS RESPIRATORY DISEASE (CIRD)	01-Sep-2006
ERP02.001APC1DV	11/849931	VACCINE COMPOSITION FOR VACCINATING DOGS AGAINST CANINE INFECTIOUS RESPIRATORY DISEASE (CIRD)	04-Sep-2007
ERP02.003DV1	12/239527	CANINE RESPIRATORY CORONAVIRUS (CRCV) SPIKE PROTEIN, POLYMERASE AND HEMAGGLUTININ/ESTERASE	26-Sep-2008

CONCLUSION

In view of Applicants' amendments to the Claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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